

Expedited Bill No.:
Concerning: Offenses –
Minors - Curfews
Draft No. & Date:
Introduced:
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Enacted:
Executive:
Effective:
Sunset Date:
Ch. , Laws of Mont. Co., CY

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to: implement a curfew for minors and generally
relating to a curfew.

By adding
 Montgomery County Code
 Chapter 32, Offenses - Victim Advocate
 Sections 32-23A through 32-23C

Boldface	Heading or a defined term.
<u>Underlining</u>	Added to existing law by original bill.
[Single boldface brackets]	Deleted from existing law by original bill.
<u>Double underlining</u>	Added by amendment.
[[Double boldface brackets]]	Deleted from existing law or the bill by amendment.

The County Council for Montgomery County, Maryland, approves the following act:

1 **Sec 1. Sections 32-23A through 32-23C are added as follows:**

2 **Sec. 32-23A. Findings and Purpose.**

3 (a) The Montgomery County Council (“Council”) has determined that
4 there has been an increase in juvenile violence, juvenile gang activity,
5 and crime by persons under the age of 18 years in the County.

6 (b) The Council has determined that persons under the age of 18 years are
7 particularly susceptible, because of their lack of maturity and
8 experience, to participate in unlawful and gang-related activities and
9 to be the victims of older perpetrators of crime.

10 (c) The Council has an obligation to provide for the protection of minors
11 from each other and from other persons, for the enforcement of
12 parental control over, and responsibility for, children, for the
13 protection of the general public, and for the reduction of the incidence
14 of juvenile criminal activities.

15 (d) The Council has determined that a curfew for those under the age of
16 18 years will be in the interest of the public health, safety, and general
17 welfare and will help to attain these objectives and to diminish the
18 undesirable impact of this conduct on County residents.

19 (e) The Council determines that passage of a curfew law will protect the
20 welfare of minors by:

21 (1) Reducing the likelihood that minors will be the victims of
22 criminal acts during the curfew hours;

23 (2) Reducing the likelihood that minors will become involved in
24 criminal acts or exposed to narcotics trafficking during the
25 curfew hours; and

26 (3) Aiding parents in carrying out their responsibility to exercise

reasonable supervision of minors entrusted to their care.

Sec. 32-23B. Definitions.

For the purposes of section 32-23C, the term:

(a) “Curfew hours” means from 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday, until 5:00 a.m. on the following day, and from 12:01 a.m. until 5:00 a.m. on any Saturday or Sunday.

(b) “Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term “emergency” includes a fire, a natural disaster, an automobile accident, or any situation that requires immediate action to prevent serious bodily injury or loss of life.

(c) “Establishment” means any privately-owned place of business operated for a profit to which the public is invited, including any place of amusement or entertainment.

(d) “Minor” means any person under the age of 18 years, but does not include a judicially emancipated minor or a married minor.

(e) “Narcotic trafficking” means the act of engaging in any prohibited activity related to narcotic drugs or controlled substances as defined in State law.

(f) “Operator” means any individual, firm, association, partnership, or corporation that operates, manages, or conducts any establishment. The term “operator” includes the members or partners of an association or partnership and the officers of a corporation.

(g) “Parent” means (1) a natural parent, adoptive parent or step-parent, or any person who has legal custody by court order or marriage, or any person not less than 21 years of age who is authorized by the natural

parent, adoptive parent, step-parent or custodial parent of a child to be a caretaker for the child; and (2) a person who, under court order, is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by a court.

(h) “Public place” means any place to which the public, or a substantial group of the public, has access, and includes streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(i) “Remain” means to linger or stay or fail to leave a public place or the premises of an establishment when requested to do so by a police officer or the owner, operator, or other person in control of the public place or establishment.

(j) “Serious bodily injury” means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Sec. 32-23C. Curfew authority; defenses; enforcement and penalties.

(a) Responsibility.

(1) **Minor.** A minor commits an offense under this section if he or she remains in any public place or on the premises of any establishment within the County during curfew hours.

(2) **Parent.** A parent of a minor commits an offense under this section if he or she knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the County during curfew hours. The term “knowingly” includes knowledge that a

parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It is, therefore, no defense that a parent was without knowledge of the activities or conduct or whereabouts of the minor.

(3) **Owner or Operator.** The owner or operator of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment within the County during curfew hours. The term "knowingly" includes knowledge that an operator should reasonably be expected to have concerning the patrons of the place open to the public. The standard for "knowingly" shall be applied through an objective test: whether a reasonable person in the position of the owner or operator should have known that the patron was a minor committing a curfew violation.

(b) Defenses.

(1) It is a defense to prosecution under this section that the minor was:

(A) Accompanied by the minor's parent;

(B) Accompanied by an adult authorized by the minor's parent to take the parent's place in accompanying the minor for a designated period of time and purpose within a specified area.

(C) On an errand at the direction of the minor's parent,

without any detour or stop until the hour of 12:30 a.m.;

(D) In a motor vehicle, train, or bus involved in interstate travel through the County or originating or terminating in the County;

(E) Engaged in an employment activity or going to, or returning home from, an employment activity, without any detour or stop. The minor must carry a valid work permit issued under State law;

(F) Involved in an emergency;

(G) On the property where the minor resides.

(H) On the sidewalk that abuts the minor's residence or that abuts the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;

(I) In attendance at an official school, religious, or other recreational activity sponsored by the County, a civic organization, or another similar entity that takes responsibility for the minor, or going to, or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the County, a civic organization, or another similar entity that takes responsibility for the minor; or

(J) Exercising First Amendment rights protected by the United States Constitution, including free exercise of religion, freedom of speech, and the right of assembly.

(2) It is a defense to prosecution under subsection (a)(3) of this section that the owner or operator of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(c) Enforcement Procedures.

(1) Before taking any enforcement action under this section, a police officer must ask the apparent offender's age and reason for being in the public place or establishment. The officer must not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (b) of this section is proffered or is present.

(2) If a police officer determines that a minor is committing a curfew offense, the police officer must take the minor to the nearest available Police facility, substation, or other area designated by the Police Department, and detain the minor until released into the custody of the minor's parent, or an adult acting in loco parentis.

(3) The minor's parent or an adult acting in loco parentis with respect to the minor must be called to the Police facility, substation or other designated area to take custody of the minor. A minor who is released to a person acting in loco parentis with respect to the minor must not be taken into custody for violation of this section while returning home with the person acting in loco parentis. If no one claims responsibility for the minor, the

minor may be taken to the minor's residence or placed in the custody of the appropriate official at the Department of Health and Human Services and subsequently released at 5:00 a.m. the following morning.

(d) Penalties

- (1) Any parent, or owner or operator of an establishment, who violates a provision of this section after a prior warning is guilty of a separate offense for each day, or part of a day, during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable as a Class A violation.
- (2) Parents of the minor may, upon each conviction for violating this section, also be required to complete parenting classes.
- (3) A minor adjudicated of a violation of this section by the Juvenile Court may be ordered to perform community service of up to 25 hours for each violation.

Sec 2. Expedited Effective Date.

The Council declares that this Act is necessary for the immediate protection of the public interest. This Act takes effect on the date when it becomes law.

Approved:

Valarie Ervin, President, County Council

Date

Approved:

Date

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Date

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